

ENTERED

May 25, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**JOHN HANCOCK LIFE INSURANCE
CO.,**

Plaintiff,

VS.

**THE ESTATE OF JENNIFER LAUREN
WHEATLEY, et al,**

Defendants.

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CIVIL ACTION NO. 4:18-cv-2869

MEMORANDUM AND ORDER

In accordance with this Court's ruling, the Estate of Jennifer Lauren Wheatley ("the Estate") provides a revised request for attorneys' fees. (Doc. 178). After reviewing the Estate's request, the Court **GRANTS** the request and awards a total of \$30,806.74 in attorneys' fees and costs.

The Estate requests fees related to efforts at the beginning of the suit, its Motion for Partial Summary Judgment on the breach of contract counterclaim, discovery efforts that began prior to the dismissal of the counterclaims in March 2019, and all other efforts towards the counterclaims. The Court finds that those fees fall within the proper scope of recoverable fees.

The Estate also asks this Court to include the efforts towards various motions to reconsider because such efforts were essential to reviving the breach of contract and Texas Prompt Payment Act claim. (*See* Docs. 76, 78, 98). Two of the Estate's motions to reconsider were granted after the Court granted the Estate's Motion for Summary Judgment and found that the Estate Defendants were entitled to the annuity payments. (Doc. 102 at 9). The Court also previously ruled that any efforts between March 14, 2019 (when the counterclaims were dismissed and held in abeyance)

and November 12, 2019 (when the counterclaims were revived by the Court), should be excluded because they categorically could not be efforts related to the counterclaims. (Doc. 117 at 5). The Court now finds that, although these requested fees were incurred within that timeframe, the fees are directly tied to the counterclaims and the motions to reconsider revived the counterclaims. Thus, any fees incurred on these motions are also recoverable.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 20th day of May, 2021.

A handwritten signature in dark ink, appearing to read "Keith P. Ellison", written over a horizontal line.

HON. KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE